

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

ORDER

v.

21-po-2-slc

JOSEPH CRANKSHAW

Defendant.

On December 30, 2021, Chief Judge James D. Peterson entered Administrative Order 391 (attached), in which he found that in-person felony proceedings shall not take place in this court for up to 90 days because they would seriously jeopardize public health and safety, and he authorized the use of video conferencing for all events listed in § 15002(b)(1) of the CARES Act. Although this order does not explicitly apply to petty offense trials, I join Chief Judge Peterson in finding that holding an in-person bench trial in this case at this time would seriously jeopardize public health and safety. This is specifically and particularly true in this case because the government's witnesses include one registered nurse and two social workers at the Tomah VA Medical Center, frontline healthcare workers during this resurgence of the COVID pandemic. As a result, this court will not hold an in-person bench trial in this case on January 14, 2022.

At our December 28, 2021 telephonic hearing, defendant Joseph Crankshaw invoked his Sixth Amendment confrontation right and refused to consent to video testimony from these witnesses. Then he invoked his Fifth Amendment right to a speedy trial, stating that he wanted to go forward with an in-person bench trial on January 14, 2022. In light of the COVID resurgence, Mr. Crankshaw must make a choice. If he chooses to confront the witnesses against him in person, then the court will postpone his trial to February, March or April, taking into account the vicissitudes of COVID in Western Wisconsin at that time. The court then would exclude time from computation on the speedy trial clock on its own motion pursuant to 18 U.S.C. § 3161(h)(7)(A) & (B), based on my finding that holding an in person trial in January, 2022 would jeopardize the health and safety of everyone involved, including frontline healthcare workers.

On the other hand, if it is more important to Mr. Crankshaw to be tried quickly, then we will hold his trial on January 14, 2021 as scheduled, but it will be done completely by video, which would require Mr. Crankshaw to consent to proceeding in this fashion.

As soon as possible, but not later than January 10, 2022, Mr. Crankshaw must advise the court in writing how he wishes to proceed. In the absence of timely input from Mr. Crankshaw, the court will strike the trial date and will conditionally re-set it to late February in consultation with the parties.

Entered this 3rd day of January, 2022.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge